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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,786	07/16/2002	Klaus Ulrich Klosa	FRELP-052-P1698US	9616
68392	7590	12/09/2008		
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EXAMINER				
FIELDS, COURTNEY D				
ART UNIT		PAPER NUMBER		
2437				
NOTIFICATION DATE		DELIVERY MODE		
12/09/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/070,786

Applicant(s)

KLOSA ET AL.

Examiner

COURTNEY D. FIELDS

Art Unit

2437

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29, 31, 38-40, 42-47, 49, 50 and 57-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29 and 57-59 is/are rejected.
- 7) ☒ Claim(s) 31, 38-40, 42-47, 49-50, 60-67 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-28, 30, 32-37, 41, 48, and 51-56 have been cancelled.
2. Claims 29 and 57-59 have been amended.
3. Claims 29, 31, 38-40, 42-47, 49-50, and 57-67 are pending.

Response to Arguments

1. Applicant's arguments filed 23 September 2008 have been fully considered and they are persuasive.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 29, 31, 38-40, 42-50 and 57-67 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 29 recites the limitation "said initialization data" in line 3. There is insufficient antecedent basis for this limitation in the claim. Also, in line 3, initialization data is represented by (DI, A-I, I-I), however, in line 5 of claim 29, the initialization data is represented by (DI), thereby creating confusion to the Examiner.
5. Claim 29 is also rejected under 35 U.S.C. 112, second paragraph, as the steps of the method claim are not positively (i.e., actively) recited. It appears that all the other claims suffer from the same deficiency. An example of active recitation of a method step in claim 29 for instance would be to change "wherein said initialization data (DI, A-I, I-I) are generated ..., and being used to initialize a new data carrier ..." to -- wherein,

generating said initialization data ..., using ... to initialize a new data carrier... --. Please make appropriate correction.

6. Claims 57 and 58 call for apparatus claims, mobile data carrier and read write station, respectively; however, there is no structure of the apparatus recited in the claims, which makes the scope of the apparatus claim unclear.

Claim Objections

7. Claims 29 and 57-59 are objected to because of the following informalities: In lines 7 and 10 of each claim appears to end with a period, this is improper. Periods may only be used at the end of claims. Appropriate correction is required.

Allowable Subject Matter

8. Claims 29, 31, 38-40, 42-50 and 57-67 would be allowable if rewritten to overcome the 35 U.S.C. 112, second paragraph rejections and the objections.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to COURTNEY D. FIELDS whose telephone number is (571)272-3871. The examiner can normally be reached on Mon - Thurs. 6:00 - 4:00 pm; off every Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Courtney D. Fields/
Examiner, Art Unit 2437
December 3, 2008

/Emmanuel L. Moise/
Supervisory Patent Examiner, Art Unit 2437